

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

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ULTIMA SERVICES CORPORATION, :
Plaintiff, :
-against- : No. 2:20-cv-00041-
U.S. DEPARTMENT OF AGRICULTURE, : DCLC-CRW
U.S. SMALL BUSINESS ADMINISTRATION, :
SECRETARY OF AGRICULTURE, and ADMINISTRATOR :
OF THE SMALL BUSINESS ADMINISTRATION, :
Defendants. :
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STATEMENT OF MICHAEL ROSMAN

1. I am the General Counsel for the Center for Individual Rights and an attorney for plaintiff in this action. I submit this statement in support of Plaintiff's motion for summary judgment.
2. Accompanying this statement as Exhibit 1 is defendants' response to plaintiff's first set of interrogatories (including a chart that was produced in response to Interrogatory No. 2 and the verifications).
3. Accompanying this statement as Exhibit 2 is defendants' response to plaintiff's first set of requests to admit.
4. Accompanying this statement as Exhibit 3 is the Small Business Administration's response to plaintiff's second set of interrogatories addressed to it.
5. Accompanying this statement as Exhibit 4 is defendants' amended response to plaintiff's second set of requests to admit.

6. Accompanying this statement as Exhibit 5 are excerpts from the Standard Operating Procedure of the Office of Business Development of the Small Business Administration (“SBA”), a document that was produced by defendants in discovery in this action.

7. Accompanying this statement as Exhibits 6, 7, and 8 are excerpts from the SBA’s 408 Reports for fiscal years 2015, 2016, and 2017 respectively, which were produced by defendants in discovery in this action. (These exhibits omit one extensive appendix in each of the three documents.)

8. During the course of discovery in this action, we have learned that the SBA has drafted 408 Reports for at least two additional fiscal years. Defendants have claimed “deliberative process” privilege with respect to those reports and have not produced them. Accompanying this statement as Exhibit 9 is counsel for defendants’ email to me asserting the privilege. Although plaintiff disagreed with their assertion of that privilege, we did not move to compel given other obligations in this and other litigations.

9. Accompanying this statement as Exhibit 10 is the Partnership Agreement between the SBA and defendant United States Department of Agriculture (“USDA”), which defendants produced in discovery in this action.

10. Accompanying this statement as Exhibit 11 is a document produced in discovery in this action identifying the goals that the SBA has set for agencies in a recent fiscal year.

11. Accompanying this statement as Exhibit 12 are documents produced in discovery in this action identifying the goals that the USDA had in three recent fiscal years.

12. Accompanying this statement as Exhibits 13-15 are decisions that the SBA made pursuant to a regulation in which groups could petition the SBA to be recognized as a “socially

disadvantaged” group. Exhibits 13 and 14 are decisions related to petitions by women and disabled veterans and were produced in discovery in this action. Exhibit 15 is a decision related to a petition by Hasidic Jews. It was produced by the defendants (which included the SBA), and submitted to the court, in another action (*DynaLantic v. Department of Defense*, D.D.C. No. 95-cv-231) in which I was one of the attorneys for the plaintiff. Defendants in this action produced the first six pages of this document, which were identical to the first six pages of Exhibit 15.

13. Accompanying this statement as Exhibit 16 are documents produced in discovery in this action, “offering letters” by USDA contracting officers asking the SBA to accept certain contracts in the 8(a) program.

14. Accompanying this statement as Exhibits 17 and 18 are the notices of deposition for the SBA and the USDA, pursuant to Fed. R. Civ. P. 30(b)(6), that we served on defendants in this action. Exhibit 19 are two emails from defendants’ counsel identifying the witnesses that they would designate to testify on the topics identified in the notices. Exhibit 20 are three emails from defendants’ counsel apprising us that certain individuals would not be able to testify on topics (USDA topic 10 and SBA topic 20) related to Executive Orders 12432 and 11625 and, eventually, that defendants would not produce anyone at all on those topics.

15. Accompanying this statement as Exhibit 21 is a stipulation from the Department of Justice to resolve a discovery issue in this action.

16. Accompanying this statement as Exhibit 22 is an email from defendants’ counsel that accompanied the production of several documents in this action.

17. Accompanying this statement as Exhibits are excerpts from the following deposition transcripts:

Exhibit 23

John Klein (30(b)(6) witness for SBA)

Exhibit 24 Heidi Atkinson (30(b)(6) witness for USDA)
Exhibit 25 Tiffany Taylor (30(b)(6) witness for USDA)
Exhibit 26 Michelle Warren (30(b)(6) witness for USDA)
Exhibit 27 Heidi Atkinson
Exhibit 28 Danny Mandell (includes marked exhibits)
Exhibit 29 Howard Stover

18. Accompanying this statement as Exhibit 30 is defendants' amended response to plaintiff's third set of interrogatories.

I state under penalty of perjury that the foregoing is true and correct. Executed on June 21, 2022.

/s/ Michael E. Rosman
Michael E. Rosman